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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/630,517      | 08/02/2000  | LINDA GAIL BERNARD   | 71111               | 8512             |

7590 04/16/2003

KAREN A HARDING  
EASTMAN CHEMICAL COMPANY  
P O BOX 511  
KINGSPORT, TN 37662-5075

EXAMINER

WYROZEBSKI LEE, KATARZYNA I

ART UNIT

PAPER NUMBER

1714

17

DATE MAILED: 04/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

|                 |                          |              |                |
|-----------------|--------------------------|--------------|----------------|
| Application No. | 09/630,517               | Applicant(s) | BERNARD ET AL. |
| Examiner        | Katarzyna Wyrozebski Lee | Art Unit     | 1714           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 21 February 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-13 and 15-70 is/are pending in the application.

4a) Of the above claim(s) 19-29 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-13, 15-18 and 30-70 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) 1-13 and 15-70 are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 02 August 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.

2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)

3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_. 6) Other: \_\_\_\_\_.

***Double Patenting***

The co-pending application, 09/630518 is now allowed. The obviousness type double patenting rejection is not withdrawn since no Terminal Disclaimer has been filed.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

2. Claims 1, 5, 6, 41, 49, 51, 54, 60, 61, 69 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following are the limitations, which cause indefiniteness in the claims:

Claim 1 invokes Markush language and therefore the term “and” in line 4 is not appropriate.

Claims 5 and 6 contain limitation of “up to about”. It is not clear if the applicant claims “about” and amount or “up to” an amount.

Claim 41 invokes Markush language and therefore the term “and” in line 2 and term “or” in line 10 are not appropriate.

Claim 49 invokes Markush language and therefore the term “and” in line 2 and term “or” in line 10 are not appropriate.

Claim 51 contains limitation of “derived from”, which renders claim indefinite. It is not clear if due to term derived the platelets are actual platelets or some derivative or it. Example, calcined product.

Claim 54 contains limitation of “derived from”, which renders claim indefinite. It is not clear if due to term derived the platelets are actual platelets or some derivative or it. Example, calcined product.

Claims 60 and 61 contain limitation of “up to about”. It is not clear if the applicant claims “about” and amount or “up to” an amount.

Claim 69 invokes Markush language and therefore the term “and” in line 2 and term “or” in line 10 are not appropriate.

### ***Claim Objections***

3. Claim 32 objected to because of the following informalities: Claim 32, line 3, term xylylene is misspelled. Appropriate correction is required.

Since the declaration under 1.131 rule has now been entered, the unexpected results overcome the prior art of record. No prior art rejection is pending against present claims. The examiner would like to remind the applicant, that application still contains restricted claims 19-29. The applicants have two options. One is to cancel the claims and second is to request

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rejoinder of the claims. In the event the applicant requests for claims to be rejoined, all 112 issues have to be removed and independent article claim has to contain every allowable subject matter present in claim 1.

The examiner would like to point the applicant to two new patents found during the updated search. Although these two patents are of at most relevance to the present invention, i.e., they would have been used in 102 rejection, they do not qualify as a prior art. The two disclosures are US 6,410,156 and US 6,423,776 both to Akkapeddi.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katarzyna Wyrozebski Lee whose telephone number is (703) 306-5875. The examiner can normally be reached on Mon-Thurs 6:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

*Katarzyna Wyrozebski Lee*  
KIWL  
April 11, 2003

EDWARD J. CAIN  
PRIMARY EXAMINER  
GROUP 1500

